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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,507	11/14/2003	Robert P. Breazeale JR.	S-830	9944

50779 7590 04/28/2006

WORLD FACTORY, INC.  
c/o LAW OFFICES OF JAMES E. WALTON, P.L.L.C.  
1169 N. BURLESON BLVD.  
SUITE 107-328  
BURLESON, TX 76028

EXAMINER

PAYER, HWEI SIU CHOU

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 04/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/713,507

Applicant(s)

BREAZEALE, ROBERT P.

Examiner

Hwei-Siu C. Payer

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 2-27-2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 32-46 is/are pending in the application.
- 4a) Of the above claim(s) 32-34 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 35-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____  | 6) <input type="checkbox"/> Other: _____                                    |

## Detailed Action

1. The amendment filed on 2-27-2006 has been entered.
2. This application contains claims 32-34 drawn to an invention nonelected with traverse in the reply filed on November 17, 2005. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

## Claims Objection

Claims 35-46 are objected to because of the following informalities:

- (1) In claims 35, 37, 38, 39 and 46, line 11, "exterior" should read --exterior surface--.

Appropriate correction is required.

## Claims Rejection - 35 U.S.C. 103(a)

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evich (U.S. Patent No. 2,984,005).

Evich shows a guard (Fig.5) comprising a seal portion defining an aperture configured to allow a blade (32') extend therethrough, and an attachment portion extending from the seal portion configured for retention on an exterior surface of a housing of the cutting device substantially as claimed except the seal portion of the guard is corrugated rather than "planar". Specifically, the intermediate portion of Evich's guard is "preferably" corrugated or otherwise shaped (see column 4, lines 4-5). However, in another embodiment (see Fig.2), Evich does show a guard (44) having a "planar" seal portion. Therefore, to make Evich's corrugated seal portion planar would have been an obvious matter of personal preference and not patentably distinct.

3. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evich (U.S. Patent No. 2,984,005) in view of Keesling (U.S. Patent No. 2,783,790) and Walker (U.S. Patent No. 2,348,429).

Evich's guard as modified above shows all the claimed structure except it does not mention how the attachment portion is retained on the exterior surface of the cutting device.

Keesling teaches it is desirable to removably attach a guard (56) to an exterior surface of a cutting device, and Walker teaches removably attaching one element (2) to the other (10) by friction.

Therefore, it would have been obvious to one skilled in the art to modify Evich by removably retaining the guard on the exterior surface of the cutting device to facilitate removal of the guard for cleaning as taught by Keesling and to further modify Evich by

frictionally retaining the guard on the cutting device to facilitate a quick and easy attachment/detachment with the use of a tool as taught by Walker.

4. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evich (U.S. Patent No. 2,984,005) in view of Keesling (U.S. Patent No. 2,783,790).

Evich's guard as modified above shows all the claimed structure except it does not mention how the attachment portion is retained on the exterior surface of the cutting device.

Keesling teaches it is desirable to removably attach a guard (56) to an exterior surface of a cutting device.

Therefore, it would have been obvious to one skilled in the art to modify Evich by removably retaining the guard on the exterior surface of the cutting device to facilitate removal of the guard for cleaning as taught by Keesling.

5. Claims 39-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (U.S. Patent No. 3,308,535) in view of Knab (U.S. Patent No. 3,152,399) and Evich (U.S. Patent No. 2,984,005).

The reciprocating slicing tool of Freeman et al. shows all the claimed structure except the reciprocating slicing tool is not in the form of a saw, and it lacks a guard member for preventing foreign matter from entering the tool housing.

However, it is notoriously old and well known in the art to provide a reciprocating slicing tool with a pair of reciprocating saw blades as evidenced by Knab (see Figs. 1-2 and 4).

Therefore, it would have been obvious to one skilled in the art at the time this invention was made to substitute Knob's saw blades for the slicing blade of Freeman et al. The modification is obvious since it would only involve substituting one known type of slicing blades for another for a reciprocating slicing tool.

Evich shows a slicing knife comprising a guard member (65).

It would have been obvious to one skilled in the art to further modify Freeman et al. by providing the reciprocating tool with a guard member to prevent foreign matter from entering the interior of the tool housing as taught by Evich.

It is noted Freeman et al. as modify having the seal portion of the guard member "corrugated" rather than "planar". Specifically, the intermediate portion of Evich's guard is "preferably" corrugated or otherwise shaped (see column 4, lines 4-5). However, in another embodiment (see Fig.2), Evich does show a guard (44) having a "planar" seal portion. Therefore, to make the corrugated seal portion of Freeman et al. planar would have been an obvious matter of personal preference and not patentably distinct.

6. Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman et al. (U.S. Patent No. 3,308,535), Knab (U.S. Patent No. 3,152,399) and Evich (U.S. Patent No. 2,984,005) as applied to claim 39, and further in view of Keesling (U.S. Patent No. 2,783,790).

Freeman et al. as modified above shows all the claimed structure except it does not mention how the attachment portion of the guard member is retained on the exterior surface of the reciprocating slicing tool.

Keesling teaches it is desirable to removably attach a guard (56) to an exterior surface of a cutting device.

Therefore, it would have been obvious to one skilled in the art to modify Freeman et al. by removably retaining the guard member on the exterior surface of the slicing tool to facilitate easy removal of the guard member for cleaning as taught by Keesling.

#### **Remarks**

In response to Applicant's arguments with respect to the Evich reference, to make the corrugated seal portion of Evich "planar" would have been an obvious matter of personal preference and not patentably distinct for the reasons set forth in the above 103 rejections. Also, the attachment portion of Evich as shown in Fig.5 clearly has a thickness greater than the thickness of the seal portion by a thickness that extends beyond the "corrugated" intermediate portion.

#### **Action Made Final**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

#### **Point of Contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hwei-Siu C. Payer whose telephone number is 571-272-4511. The examiner can normally be reached on Monday through Friday, 7:00 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone numbers for the organization where this application or proceeding is assigned are 571-273-8300 for official communications and 571-273-4511 for proposed amendments.

H Payer  
April 25, 2006

*H Payer*  
**Hwei-Siu Payer**  
**Primary Examiner**